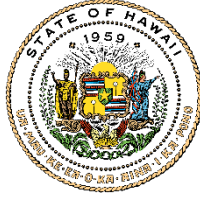


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

DEAN D. UYENO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N. S. CHANG
Chairperson

Before the Senate Committees on
WATER AND LAND
AND
AGRICULTURE AND ENVIRONMENT

Wednesday, March 20, 2024
1:15 PM
State Capitol, Conference Room 229 & Videoconference

In consideration of
HOUSE BILL 2690, HOUSE DRAFT 2, SENATE DRAFT 1 (PROPOSED)
RELATING TO WATER

The proposed House Bill 2690, House Draft 2, Senate Draft 1 proposes to establish a Water Alliance Initiative (WAI) policy coordinator and other positions within the Department of Land and Natural Resources (Department) for implementation of the Red Hill WAI Working Group's Report of November 2023, and creates the Red Hill Remediation Special Fund.

The Department strongly supports Part I, SECTIONS 1 through 6, of this measure. As stewards of Honolulu's sole source groundwater aquifer and Hawai'i's ecosystems, the Department recognizes the WAI's important role in ensuring that post-defueling remediation efforts restore the mauka to makai health of the aquifer. Our precious aquifer not only provides drinking water to hundreds of thousands of Honolulu residents but is also critical for the environment under the stewardship of the Department.

The Department supports the use of the Red Hill Special Remediation Fund for monitoring, applied research, public outreach and education, and evaluation. The Department further supports the creation of the three full-time positions within the Office of the Chairperson for the WAI policy coordination.

Part II of this measure repeals the position of First Deputy to the Chairperson of the Commission on Water Resource Management (Commission) and establishes the Executive Director of the Commission;

amends the composition of the Commission administratively attaches the Commission to the Department; authorizes members of the Commission to be eligible to serve as chairperson; requires the Chairperson of the Board of Land and Natural Resources and Director of Health to serve as ex officio voting members ineligible to serve as chairperson; authorizes entities to whom an emergency order is directed to challenge the order under certain conditions; clarifies the notification requirements and contents of declarations of water shortages; establishes fines; and makes conforming amendments. **The Department is providing testimony organized by each section of this measure indicating our support or opposition, respectively.**

SECTION 8 amends Subsection 84-14(e) by changing the title of “First Deputy to the Chairperson” to “Executive Director” of the Commission on Water Resource Management in the list of State employees who have restrictions on post-employment activities. **The Department supports this amendment.**

SECTION 9 amends Section 174C-6, HRS, by replacing the Deputy to the Chairperson of the Commission on Water Resource Management with an Executive Director. **The Department supports this amendment.**

SECTION 10 amends Section 174C-7, HRS, to clarify that the Commission shall be attached to the Department for administrative purposes only. The Department recognizes that Commission has its independent authority in all matters related to the water code. However, the Department’s mission is to preserve and protect cultural and natural resources for the present and future generations. Our ability to fulfill our mission is built upon the foundation that water and land are integrally connected from an ecosystem and cultural lens. **The Department opposes this amendment.**

SECTION 10 also amends Section 174C-7, HRS, to allow any Commission member to be elected to serve as the Chairperson of the Commission, except that the Chairperson of the Board of Land and Natural Resources (BLNR) and the Director of Health or their designee would be ineligible to serve as the Chairperson of the Commission. **The Department opposes this amendment. The Department finds that the Commission regularly addresses highly complex water issues in close collaboration with numerous government agencies and community organizations, where the Chairperson often serves as the delegated representative on behalf of the entire Commission. Placing these duties and responsibilities of the Chairperson of the Commission on a volunteer appointed position may be unduly burdensome and present challenges in fulfilling obligations of the role.**

SECTION 11 amends Section 174C-9, HRS, to allow for any party to whom an emergency order is directed to challenge the order while immediately complying with the order, with the Commission giving precedence to a hearing on the challenge. **The Department supports this amendment because it would provide a due process right to anyone receiving an emergency order to raise a challenge.**

SECTION 12 amends Section 174C-15, HRS, expanding the scope of violations to include violation of any orders of the Commission, failure to obtain required permits, failure to comply with permit conditions, and failure to comply with water audit requirements. The amendments also increase the maximum allowable fines from \$5,000 per day to \$25,000 per day and specifies the factors that the Commission shall consider when imposing fines.

The Department has found that the current maximum penalty of \$5,000 per violation in Hawai‘i Revised Statutes (HRS) Section 174C-15 does not have a sufficient deterrent effect anymore. For example, even a one-time violation of an interim instream flow standard can lead to the diversion of millions of gallons of water and if the violating entity is charging end-users for the delivery of this stream water, \$5,000 will simply be the cost of doing business. Such violations have extreme detrimental effects on public trust uses, which are water in its natural state, i.e. the stream itself and native aquatic life, domestic uses dependent on the stream, and traditional and customary Native Hawaiian practices.

HRS Section 174C-15 has only been amended once since its adoption by Act 45, Session Laws of Hawai‘i (SLH) 1987 (Act 45). In 2004, Act 142 raised the maximum penalty from \$1,000 to \$5,000 and added subsection (d). However, in its 1994 Report to the State Legislature, the Review Commission on the State Water Code (Review Commission), pursuant to Section 5 of Act 45, had already proposed a maximum fine of \$25,000 for reckless, knowing, or intentional violations.

The Hawai‘i Supreme Court held that the Hawai‘i State Constitution in Article XI Section 7 designated the Commission as the “*primary guardian*” of the public trust resource - water.¹ This bill will support the Commission in its affirmative duty “*to protect, control and regulate the use of Hawaii’s water resources*” as articulated in Article XI Section 7 of the Constitution of the State of Hawai‘i. Currently, the Commission is overseeing 5,334 groundwater wells, 1,226 surface water diversions, and 376 perennial streams, approximately 100 of which have a measurable interim instream flow standard that requires monitoring and enforcement. The Commission regulates the use of water in water management areas on the islands of O‘ahu, Moloka‘i and Maui with the total amount of 411 groundwater use permits and 176 surface water use permits.

The Department appreciates the clarification of a continuing violation and the addition of mandatory factors for the determination of the penalty amount in the newly added subsection (c) to HRS Section 174C-15, which are identical to the factors DOH considers in HRS Section 342D-31. The Department would like to propose the inclusion of the language of HRS Section 342D-31 (c) for further clarification (grey highlight):

(c) When imposing a penalty, the commission shall consider the following factors, including but not limited to:

(1) The nature, circumstances, extent, gravity, and history of the violation and of any prior violations;

(2) The economic benefit to the violator, or anticipated by the violator, resulting from the violation;

(3) The opportunity, difficulty, and history of corrective action;

(4) Good faith efforts to comply;

(5) Degree of culpability; and

¹ *In re Water Use Permit Applications*, 94 Hawai‘i, 97, 141, 9 Pd.3, 409, 453 (2000). (*Waiāhole I*)

(6) Such other matters as justice may require.

It is presumed that the violator's economic and financial conditions allow payment of the penalty, and the burden of proof to the contrary is on the violator.

Furthermore, these factors in subsection (c) correspond with the Commission's Administrative and Civil Penalty Guideline (G14-01)² that the Commission adopted on October 1, 2014³. The Department notes that G14-01 provides for an initial administrative fee of \$500, if the Commission issued a written notice of alleged violation, in addition to any fine.

The Department supports a maximum fine of \$25,000 to match the recommendations of the Review Commission.

SECTION 13 amends Section 174C-62, HRS, adding clarifying language for the declaration of water shortage. **The Department supports these amendments.**

Finally, the Department proposes to add a new Paragraph 17 to Section 174C-5, HRS, which was included in the original draft of Senate Bill 3327 (grey highlight below). This amendment would allow the Commission to declare an emergency after consultation with the Governor, the counties, and the Department of Health, that there is an absence of sufficient quantity and quality of water that threatens public health, safety, and welfare, and to take certain actions to address the emergency. Such emergency powers would allow the Commission to give tailored orders to respond to emergencies such as the Red Hill Crisis and the Maui Fires. For example, the Commission could order how water for temporary housing is provided, without having to suspend the State Water Code or whole sections of it, which in return could jeopardize other public trust uses of water in the same region. **The Department strongly recommends this amendment since it allows the Commission to take timely action to address water emergencies after consulting with the Governor and relevant government agencies.**

(17) May declare an emergency if the commission determines, in consultation with the governor, the appropriate county, and the department of health, that there is an absence of sufficient quantity and quality of water in any area, whether within or outside of a water management area, that immediately threatens the public health, safety, and welfare. The commission may issue orders reciting the existence of the emergency and requiring those actions as the commission deems necessary to address the emergency be taken, including but not limited to apportioning, rotating, limiting, or prohibiting the use of water resources of the area; provided that an emergency order shall expire no later than one year after issuance by the commission; provided further that the order may be extended by a separate or supplementary order.

² https://files.hawaii.gov/dlnr/cwrm/planning/wrpp2019update/WRPP_AppP_201907.pdf

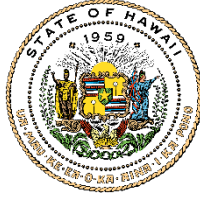
³ <https://files.hawaii.gov/dlnr/cwrm/submittal/2014/sb201410D1.pdf>

The Department recommends repealing Subsection (g) in Section 174C-62, HRS, as in the original draft of Senate Bill 3327. The Commission's authority to issue orders in emergencies is provided for in the proposed amendment to Section 174C-5 adding Paragraph (17).

Thank you for the opportunity to testify on this measure.

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

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HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
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RYAN K.P. KANAKA'OLE
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Testimony of
DAWN N. S. CHANG
Chairperson

Before the Senate Committees on
WATER AND LAND
AND
AGRICULTURE AND ENVIRONMENT

Wednesday, March 20, 2024
1:15 PM
State Capitol, Conference Room 229 & Videoconference

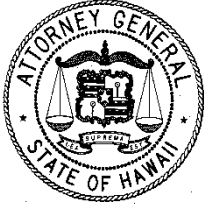
In consideration of
HOUSE BILL 2690, HOUSE DRAFT 2
RELATING TO WATER

House Bill 2690, House Draft 1 proposes to establish a Water Alliance Initiative (WAI) policy coordinator and other positions within the Department of Land and Natural Resources (Department) for implementation of the Red Hill WAI Working Group's Report of November 2023, and creates the Red Hill Remediation Special Fund. **The Department of Land and Natural Resources (Department) strongly supports this measure.**

As stewards of Honolulu's sole source groundwater aquifer and Hawai'i's ecosystems, the Department recognizes the WAI's important role in ensuring that post-defueling remediation efforts restore the mauka to makai health of the aquifer. Our precious aquifer not only provides drinking water to hundreds of thousands of Honolulu residents but is also critical for the environment under the stewardship of the Department.

The Department supports the use of the Red Hill Special Remediation Fund for monitoring, applied research, public outreach and education, and evaluation. The Department further supports the creation of the three full-time positions within the Office of the Chairperson for the WAI policy coordination.

Thank you for the opportunity to testify in strong support of this measure.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

H.B. NO. 2690, H.D. 2, PROPOSED S.D. 1, RELATING TO WATER.

BEFORE THE:

SENATE COMMITTEES ON WATER AND LAND AND ON
AGRICULTURE AND ENVIRONMENT

DATE: Wednesday, March 20, 2024 **TIME:** 1:15 p.m.

LOCATION: State Capitol, Room 229 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Daniel A. Morris, Deputy Attorney General

Chairs Inouye and Gabbard and Members of the Committees:

The Department of the Attorney General (Department) opposes the Proposed Senate Draft 1 of this bill on constitutional grounds and requests that it not be adopted or, alternatively, that three new readings in each house be given on the bill if Proposed Senate Draft 1 is adopted.

The bill currently, in the House Draft 2, establishes a Red Hill Water Alliance Initiative (WAI) Policy Coordinator and other positions within the Department of Land and Natural Resources for coordination of Red Hill WAI initiatives, creates the Red Hill Remediation Special Fund, and appropriates funds.

Part I of the Proposed Senate Draft 1, like House Draft 2, establishes a WAI Policy Coordinator and other positions within the Department of Land and Natural Resources for coordination of Red Hill WAI initiatives, creates the Red Hill Remediation Special Fund, declares that the general fund expenditure ceiling is exceeded, and appropriates funds. Part II of Proposed Senate Draft 1, however, repeals the position of deputy to the chairperson of the Commission on Water Resource Management (CWRM) and establishes the position of executive director of CWRM, amends the composition of CWRM and administratively attaches it to DLNR, and establishes fines for certain water use offenses.

We believe that there is a significant risk that the courts will conclude that the addition of part II in Proposed Senate Draft 1 is outside the scope of the purpose of the original bill and that it violates article III, section 15, of the Hawai'i Constitution if it does not receive three additional readings in each house. In *League of Women Voters of Honolulu v. State*, 150 Hawai'i 182, 205, 499 P.3d 382, 405 (2021), the Hawai'i Supreme Court held that article III, section 15, places an implicit "germaneness" limitation on the types of amendments that may be added to bills during the legislative process. *League of Women Voters* holds that when a non-germane amendment is added to a bill, the new material added via the non-germane amendment does not get the benefit of readings that occurred before the amendment was added.

The object of this bill, in its original draft, was to establish a WAI policy coordinator and other positions within the Department of Land and Natural Resources for coordination of Red Hill WAI initiatives, create the Red Hill remediation special fund, and appropriate funds. As passed out of the House, the bill has not strayed from its original purpose.

There is a significant risk that a court will hold that the changes in the Proposed Senate Draft 1 concerning CWRM are not germane, however. In other words, if Proposed Senate Draft 1 is adopted, the provisions regarding CWRM would have received zero readings in either house, and the three readings must "begin anew" in both the House and the Senate.

The adoption of Proposed Senate Draft 1 would create a significant constitutional issue. To address this issue, the Department advises that Proposed Senate Draft 1 not be adopted or, alternatively, that three new readings in each house be given on the bill if Proposed Senate Draft 1 is adopted.

Thank you for the opportunity to testify.



HB2690 HD2
RELATING TO WATER
Senate Committee on Water and Land
Senate Committee on Agriculture and Environment

March 20, 2024

1:15 p.m.

Conference Room 229

The Office of Hawaiian Affairs (OHA) will recommend to the Board of Trustees that it **SUPPORTS, provides comments, and offers an amendment** on the proposed HB2690 SD1, which Establishes a WAI Policy Coordinator and other positions within the Department of Land and Natural Resources for coordination of Red Hill WAI initiatives and repeals the position of deputy to the chairperson of the Commission on Water Resource Management and establishes the position of executive director, amends the composition of the commission and administratively attaches it to the Department of Land and Natural Resources (DLNR) and establishes fines for certain water use offenses.

OHA supports the intent of Part I. We believe it is important that there be a centralized, well-supported and well-resourced entity to ensure comprehensive, coordinated and complete remediation occurs. We would like to urge that whatever entity leads remediation efforts ensures that federal funding support these efforts rather than expending state monies. While OHA appreciates the legislature anticipating potential contributions to the special fund, we strongly believe that the burden rests with the federal government and that they should bear all of the costs for remediation.

OHA also supports the intent of Part II. It is important that the Commission on Water Resource Management (CWRM or the commission) be insulated from political influence to the greatest extent possible. The history of water management in Hawai'i has shown the detrimental ways in which water resources can be influenced by political and financial influence. The diversion of Nā Wai 'Ehā on Maui for sugarcane plantation use is a telling example. We believe that creating the position of the executive director and administratively attaching CWRM to DLNR can help achieve greater independence for the commission.

We urge this committee to consider providing adequate financial and human resources to support the establishment of an administratively attached commission. As an attached



HB2690 HD2
RELATING TO WATER
Senate Committee on Water and Land
Senate Committee on Agriculture and Environment

agency, the executive director and the commission will need to ensure it has the staff and appropriations to support it.

Further, OHA encourages this committee to consider strengthening the qualifications of the executive director position. It is important that the executive director not just have experience in water resources but have a broader understanding of water resource management, watershed management, riparian rights, and Native Hawaiian water rights. The committee may want to consider adding additional language to Part II, Section 9 starting on page 15, line 19 that could provide stronger experience requirements for the executive director position.

OHA also supports the increase of the upper limit of a fine from \$5,000 to \$25,000. Additionally, we appreciate language clarifying that each day a violation occurs shall be considered a separate offense. We hope that this will help the CWRM more effectively enforce violations.

Finally, OHA respectfully requests that our agency be included in the nominating committee for members of the CWRM. We offer the following amendment on page 19, lines 5-12 for the committee's consideration:

~~[(d)]~~ (e) In appointing a member to the commission, the governor shall select from a list submitted by a nominating committee. The nominating committee shall be composed of ~~four~~ **[five]** individuals chosen as follows: two persons appointed by the governor; one person appointed by the president of the senate; and one person appointed by the speaker of the house **[; one person appointed by the Chief Executive Officer of the Office of Hawaiian Affairs]**. The committee shall solicit applications and send to the governor the names of at least three individuals for each open position.

Mahalo nui for the opportunity to testify on one of the most important issues for Hawa'i: wai. We urge this committee to **advance HB2690 with amendments.**



UNIVERSITY OF HAWAII SYSTEM

‘ŌNAEHANA KULANUI O HAWAII

Legislative Testimony

Hō'ike Mana'o I Mua O Ka 'Aha'ōlelo

Testimony Presented Before the
Senate Committee on Water and Land
Senate Committee on Agriculture and Environment
Wednesday, March 20, 2024 at 1:15 p.m.

by

Vassilis L. Syrmos, Vice President for Research and Innovation
University of Hawai'i System

HB 2690 HD2 – RELATING TO WATER

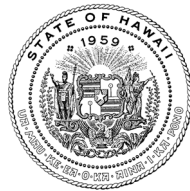
Chairs Inouye and Gabbard, Vice Chairs Elefante and Richards, and Members of the Committees:

The University of Hawai'i (UH) supports HB 2690 HD2 which seeks to establish a Red Hill Water Alliance Initiative (Red Hill WAI) policy coordinator in the Department of Land and Natural Resources (DLNR) and creates a Red Hill remediation special fund.

While the imminent threat of future leaks has been minimized through the defueling of the Red Hill Bulk Fuel Storage Facility, years of clean up, monitoring, research and policy making will be needed for remediation of the aquifer and the surrounding ecosystem. This will require proper coordination between DLNR, the Department of Health, Honolulu Board of Water Supply, U.S. Navy, Environmental Protection Agency, UH, community organizations, and other state, federal and county agencies.

The Red Hill WAI coordinator and related positions are critical to this effort and the remediation special fund will enable this group to fund necessary efforts in monitoring, research, remediation, public outreach and education, and evaluation.

Thank you for the opportunity to testify in support of HB 2690 HD2.



JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR

LUIS P. SALAVERIA
DIRECTOR

SABRINA NASIR
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
Ka 'Oihana Mālama Mo'ohelu a Kālā
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

WRITTEN ONLY

TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEES ON WATER AND LAND AND
AGRICULTURE AND ENVIRONMENT
ON
HOUSE BILL NO. 2690, H.D. 2

March 20, 2024
1:15 p.m.
Room 229 and Videoconference

RELATING TO WATER

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill (H.B.) No. 2690, H.D. 2: 1) establishes the Red Hill Water Alliance Initiative (WAI) policy coordinator and other exempt positions within the Department of Land and Natural Resources to coordinate Red Hill WAI initiatives; 2) creates the Red Hill Remediation Special Fund (RHRSF) that would generate revenues through legislative appropriations, gifts, donations, grants, and interest for remediation efforts; and 3) appropriates an unspecified sum of general funds for FY 25 for the positions and monitoring of the Red Hill Bulk Storage Facility area. No special funds are appropriated in the bill.

As a matter of general policy, B&F does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and

charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. Regarding H.B. No. 2690, H.D. 2, it is difficult to determine whether the proposed RHRSF would be self-sustaining.

Thank you for your consideration of our comments.

**BOARD OF WATER SUPPLY
KA 'OIHANA WAI
CITY AND COUNTY OF HONOLULU**

630 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96843
Phone: (808) 748-5000 • www.boardofwatersupply.com

RICK BLANGIARDI
MAYOR
MEIA

ERNEST Y. W. LAU, P.E.
MANAGER AND CHIEF ENGINEER
MANAKIA A ME KAHU WILIKI

ERWIN KAWATA
DEPUTY MANAGER
HOPE MANAKIA



NĀ'ĀLEHU ANTHONY, Chair
KAPUA SPROAT, Vice Chair
BRYAN P. ANDAYA
JONATHAN KANESHIRO
EDWIN H. SNIFFEN, Ex-Officio
GENE C. ALBANO, P.E., Ex-Officio

March 20, 2024

The Honorable Lorraine R. Inouye, Chair
and Members
Senate Committee on Water and Land

The Honorable Mike Gabbard, Chair
and Members
Senate Committee on Agriculture and Environment
Hawai'i State Capitol, Room 229
Honolulu, Hawai'i 96813

Dear Chair Inouye, Chair Gabbard and Members:

Subject: House Bill 2690, HD2, Proposed SD1: Relating to Water

The Honolulu Board of Water Supply (BWS) is in strong support of the proposed Senate Draft (SD) 1 to House Bill (HB) 2690, House Draft (HD) 2. The purpose of the bill is twofold: Part I adds a new chapter in Hawai'i Revised Statutes (HRS) to establish within the Department of Land and Natural Resources (DLNR), a policy lead and coordinator for the Red Hill Water Alliance Initiative (WAI) outlined in the November 2023 report; and Part II makes amendments to the state water code pursuant to HRS chapter 174C. The BWS would like to highlight its position on a couple of important amendments in the proposed SD 1, as follows:

Part I of the Proposed SD1:

Establishes the WAI Policy Coordinator, other positions and creates a Red Hill Remediation Special Fund:

The BWS supports the amendments made to this Part I of the proposed SD1, as it adds a new chapter in Hawai'i Revised Statutes (HRS) within the Department of Land and Natural Resources (DLNR) and includes a policy lead and coordinator for the Red Hill Water Alliance Initiative (WAI) outlined in the November 2023 report. It is important that we look at establishing government structures that can help to oversee the remediation needs after the defueling of the tanks and removal of residual fuel and contaminants from the Red Hill Bulk Fuel Storage Facility (Red Hill Facility) in the long term as this effort can extend well into the future. This bill

The Honorable Lorraine R. Inouye, Chair
The Honorable Mike Gabbard, Chair
and Members
March 20, 2024
Page 2

also establishes a special fund to be administered by the WAI coordinator and to be able to receive federal funds, which can be used for monitoring, applied research, public outreach and education and evaluation.

The BWS is grateful to the signatories of the WAI report as this will require future cooperation of all state and county agencies to provide all information requested by the WAI coordinator with respect to the Red Hill remediation efforts. The WAI coordinator will focus on obtaining federal funding for the remediation of the aquifer, which has been impacted by the U.S. Navy's Red Hill Bulk Fuel Storage Facility.

Part II of the Proposed SD1:

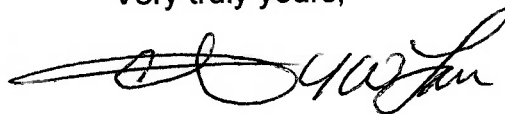
Amendments to the state water code pursuant to HRS chapter 174C:

The BWS supports the amendments made to this Part II as proposed in SD 1, including SECTION 8 of this Part which amends HRS Section 84-18, subsections (e) (41), by changing the title "~~first deputy to the chairperson~~" to "executive director" of the commission on water resource management. The BWS strongly supports this amendment as it reduces political influence on water, which is a critical resource to life, health, and our well-being. The Red Hill crisis reinforced the importance of our aquifer. Ola I ka Wai = "Water is Life" for all the people of Hawai'i. Back in the late 1920s, the territorial legislature also saw the problems with political influence over decisions related to water, which is vital for life. The BWS was created in a very similar model of what is proposed in this Part II. Having the Commission hire its own executive director to serve at the pleasure of the Commission, would help to depoliticize even the perception of political influence on water. The BWS strongly supports this concept being applied to the Commission. Like the BWS, this model would allow for more independence on water decisions that are vital for life for our community.

SECTION 9 amends Section 174C-6, HRS, changes the ~~Deputy to the chairperson~~ to Executive Director of the commission on water resource management. For the reasons, stated above the BWS supports the amendments made in this section.

Thank you for the opportunity to testify in strong support of HB2690, and the amendments Proposed SD1.

Very truly yours,



ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer



SIERRA CLUB OF HAWAI'I

SENATE COMMITTEE ON WATER AND LAND

SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

March 20, 2024

1:15 PM

Conference Room 229

In **SUPPORT WITH AMENDMENTS** of HB2690 HD2: RELATING TO WATER

Aloha Chair Inouye, Chair Gabbard, Vice Chair Elefante, Vice Chair Richards, and Members of the Committees,

On behalf of our over 20,000 members and supporters, the Sierra Club of Hawai'i **SUPPORTS WITH AMENDMENTS** HB2690 HD2. The Sierra Club appreciates and supports the intent to institutionalize the Red Hill Water Alliance Initiative's (WAI's) commitment to fully remediate our 'āina and wai; however, **the lessons of the last decade demand much greater safeguards against the potential for political interference by the U.S. military and its benefactors over the ensuing decades, that will otherwise frustrate this measure's goals.**

The Sierra Club commends the Red Hill WAI for its members' explicit commitment to ensuring the full remediation of our 'āina and wai from the release of up to 2 million gallons of fuel and other toxic substances from the Navy's Red Hill Bulk Fuel Underground Storage Facility. The Sierra Club also appreciates that the establishment of a governmental entity, as proposed by this measure, may be necessary to track and hold the Navy accountable for cleaning up its contamination of our island, particularly in light of the reality that it will take decades for full remediation to be achieved.

However, because of this lengthy remediation timeline – which will extend well beyond the tenure and even potential lifetimes of the Red Hill WAI's members – substantial amendments to this measure will be necessary to avoid the same political pitfalls that have led to the contamination of our aquifer and the poisoning of thousands of O'ahu residents. **The Sierra Club urges the members of the Committee to reflect upon the multiple missed opportunities that arose over the last ten years, that could have prevented our current water crisis – and to recognize that the U.S. military's political influence and willingness to deceive local and national elected officials as well as the general public contributed to our government's failure to protect our island and our people, until this crisis began.**¹ Unless precautions are taken to ensure

¹ For example, the responses of multiple administrations illustrate the unwillingness or inability of local political leaders to hold the Navy accountable, almost certainly due to the military's influence. After the reported release of 27,000 gallons of fuel from the Red Hill facility in 2014, Governor Abercrombie's administration negotiated a largely toothless "Administrative Order on Consent" (AOC) that surrendered ultimate decisionmaking authority over the Navy's response to the federal government in Washington D.C. Over the next six years, Governor Ige's administration did little to hold the Navy accountable to the AOC, which still remains largely

the political insulation of any government entity tasked with implementing the Red Hill WAI's goals over the ensuing decades, such an entity will be unable to achieve these objectives, and will fail to hold the U.S. Navy accountable to its responsibility to fully clean up its mess.

Accordingly, the Sierra Club of Hawai'i strongly urges the Committee to include the following amendments to these measures:

First, any government staff tasked with implementing the Red Hill WAI's goals, such as the WAI Policy Coordinator proposed under HB2690 HD2, should be placed under a multi-member board, such as the Remediation Authority described in HB2691. Placing a WAI Policy Coordinator or other staff under the Chair of the Department of Land and Natural Resources, as proposed in HB2690 HD2, will only subject them to the influence of a politically-invested Office of the Governor, which the last decade has demonstrated is highly deferential to the U.S. military's desires. **It is absolutely critical to have any such staff answer to a multi-member board, rather than a political appointee of the Governor.**

Second, any such board should not be dominated by appointees of the Governor. **A majority of voting board members should be selected by independent organizations that represent the Hawai'i community, which has been and will continue to be a driving force for true accountability to our island, our people, and our future.** Such organizations could include organizations such as: the Honolulu Board of Water Supply, the Office of Hawaiian Affairs, the Association of Hawaiian Civic Clubs, the University of Hawai'i Water Resources Research Center, and the Sierra Club of Hawai'i.

Third, staff tasked with carrying out the Red Hill WAI's goals should have the skills and expertise relevant to achieving these goals, to enable them to objectively analyze and respond to potentially biased actions and responses by the U.S. Navy. This could include experts in environmental remediation, public relations, federal funding pathways, and community organizing.

Finally, any Red Hill remediation special fund should include provisions to support non-governmental education and organizing efforts as an essential ingredient in achieving true accountability.

unfulfilled – frustrating our current efforts to track and contain the contamination plume in our aquifer. Governor Ige's administration further failed to uphold state law and require the U.S. Navy to apply for an underground storage tank permit, until the Sierra Club of Hawai'i sued the Department of Health twice, in 2017 and 2019. Governor Ige also failed to call for the shutdown of the Red Hill Facility even after the catastrophic 2021 release, citing his belief that the military "is a vibrant part in our economy." Current Governor Green has also repeatedly made false claims regarding the status of the Facility's defueling, praising the efforts of the U.S. Navy even as O'ahu continues to struggle with the loss of our major drinking water shaft and while hundreds of individuals, including children, continue to report ongoing medical issues and financial instability.

A draft proposed HB2690 HD2 implementing the above recommendations is included below for the Committee's reference and convenience.

Accordingly, the Sierra Club of Hawai'i respectfully but strongly urges the Committee to **PASS WITH AMENDMENTS** HB2690 HD2. Mahalo nui for the opportunity to testify.

1 Oahu. Over the past eighty years, numerous spills have occurred
2 at Red Hill.

3 This history of spills includes a release of twenty-seven
4 thousand gallons that took place between December 2013 and
5 January 2014, eventually leading to a 2015 administrative order
6 on consent between the U.S. Navy, the U.S. Environmental
7 Protection Agency, and the Hawai'i department of health. As of
8 January 2024, numerous commitments under the administrative
9 order on consent remained unfulfilled: notably, the U.S. Navy
10 has neither completed a working groundwater flow model nor
11 contaminant fate and transport model; a full risk assessment was
12 never completed; and a tank upgrade alternatives analysis has
13 never been accepted by regulators.

14 Despite Navy admissions that eight out of fourteen of the
15 underground storage tanks containing fuel as of February 2021
16 had not been inspected in over twenty years, with three of these
17 tanks not having been inspected in over thirty eight years;
18 destructive testing revealing that the Navy's tank inspection
19 process inaccurately assessed the integrity of a tank's steel
20 liner in four out of ten instances; and an incomplete risk
21 assessment that concluded there to be an "expected," chronic
22 release rate of fifty thousand gallons of fuel per decade, and
23 an eighty per cent chance of up to thirty thousand gallons of
24 fuel being released in any five year period; the U.S. Navy

1 continued to assert that its Red Hill facility was safe, and, as
2 of February 8, 2021, that its "Red Hill Bulk Fuel Facility is
3 not only well maintained and operated, but also uses the best
4 available technology to inspect and maintain the fuel tanks.
5 These safety factors meet and exceed industry and regulatory
6 standards."

7 These assurances, as confirmed in a 2022 report by Simpson,
8 Gumpertz & Heger, Inc., commissioned by the U.S. Navy, were
9 patently false. The report found, as described by the Hawai'i
10 department of health, that "major structural repairs are needed
11 for the piping and distribution system to enable safe defueling"
12 and that "[t]he necessary repairs will be extensive, involving
13 the entire distribution system from Red Hill to the Pearl Harbor
14 waters."

15 More recently, on November 20, 2021, about ninety-three
16 thousand individuals served by the Navy's potable water system
17 for Joint Base Pearl Harbor-Hickam were directly affected when
18 the Navy's Red Hill shaft was contaminated by the release of up
19 to nineteen thousand gallons of fuel, including JP-5 jet fuel,
20 older fuels stored at the Red Hill Bulk Fuel Storage Facility,
21 and any additives used. Over six thousand individuals sought
22 medical attention, and one thousand were forced to leave their
23 homes due to the contamination. One year later, on November 29,
24 2022, approximately one thousand three hundred gallons of

1 aqueous fire-fighting foam concentrate containing per- and poly-
2 fluoroalkyl substances, or "forever chemicals," were
3 accidentally released from the facility; little is known
4 regarding the success of the Navy's ad-hoc clean up efforts,
5 although storm conditions suggest that these "forever chemicals"
6 may have spread across the landscape and into the ground. Much
7 of the fuel and other toxic chemicals released from the Red Hill
8 Bulk Fuel Storage Facility remains in the environment, trapped
9 within the complex geological formations beneath and near the
10 tanks.

11 The legislature finds that the 2021 fuel release, which has
12 plunged O'ahu into a crisis that may take years to recover from,
13 is in many ways the result of the political influence and active
14 deception by the U.S. Navy and its representatives over the past
15 ten years. Multiple administrations, persuaded by the Navy's
16 false assurances, failed to take actions that may have avoided
17 our current water crisis. The legislature therefore acknowledges
18 that strong protective mechanisms are necessary to minimize the
19 potential for political influence and deception that could
20 frustrate efforts to hold the Navy and federal government
21 accountable for the full remediation of our aquifer and
22 environment over the ensuing decades.

23 The legislature further finds that on May 9, 2023,
24 officials from the State and city and county of Honolulu signed

1 a unified statement on Red Hill, recognizing the stewardship
2 responsibility to ensure that there is clean water on O'ahu for
3 future generations. The Red Hill Water Alliance Initiative
4 (WAI), a governmental working group, met regularly in 2023 since
5 the signing of the unified statement. The Red Hill WAI posed
6 questions, conducted research, listened to subject-matter
7 experts, and formulated recommended policies.

8 The legislature also finds that the Red Hill WAI's approach
9 of total stewardship responsibility required a stance of
10 extending beyond statutory roles, specific responsibilities,
11 tenure in those roles, and even personal lifetimes. Its inquiry
12 included the pursuit of critical questions for which there may
13 currently be no answers. Thus, the pursuit of those answers is
14 part of the ongoing work.

15 The legislature notes that besides its regulatory functions
16 under federal and state environmental laws, the State also has
17 unique public trust responsibilities set forth in the Hawai'i
18 State Constitution, which establishes an affirmative duty of the
19 State to preserve and protect public trust resources, including
20 water resources.

21 The legislature additionally finds that the focus of the
22 Red Hill WAI's inquiry is the remediation needs after the
23 defueling of the tanks and removal of residual fuel and
24 contaminants from the Red Hill Bulk Fuel Storage Facility. In

1 particular, the Red Hill WAI is concerned with the unknowns
2 posed by fuel and other contaminants, including per- and poly-
3 fluoroalkyl substances already in the ground, as well as the
4 residuals of the fuel plume in the aquifer as a result of the
5 spill that occurred on November 20, 2021. In fact, there may be
6 as many as 1,940,000 gallons of fuel constituents in the ground
7 that have leaked or spilled over eight decades. Pursuant to a
8 proactive approach, the Red Hill WAI seeks to describe the
9 remediation it believes necessary for the future well-being of
10 the aquifer in which there is a negligible risk to current and
11 future water sources, including the Hālawā Shaft, Hālawā wells,
12 and 'Aiea wells; the water distribution system; and the
13 ecosystem, including springs, streams, and nearshore waters.

14 After much diligent work, the Red Hill WAI issued a public
15 report in November 2023 that set forth its findings and
16 recommendations. Some of the recommendations can only be
17 addressed by the federal government, while other recommendations
18 can be undertaken by the State and city and county of
19 Honolulu. Moreover, the legislature finds that there must be no
20 delay in adopting the recommendations of the Red Hill WAI,
21 especially those that can be implemented at the state and county
22 levels.

23 Therefore, the purpose of this chapter is to:

- 1 (1) Establish the Red Hill remediation authority, to
2 include representatives selected by independent
3 governmental and non-governmental entities;
- 4 (2) Provide the authority with staff with relevant skills
5 and expertise to pursue the full remediation of our
6 environment; and
- 7 (3) Create the Red Hill remediation special fund.

8 § -2 **Definitions.** As used in this chapter, unless a
9 different meaning is plainly required by the context:

10 "Authority" means the Red Hill remediation authority.

11 "Board of directors" means the board of directors of the
12 Red Hill remediation authority.

13 "Red Hill Water Alliance Initiative" means the group of
14 individuals composed of the governor, speaker of the house of
15 representatives, president of the senate, chairperson of the
16 board of land and natural resources and commission on water
17 resource management, president of the University of Hawaii,
18 mayor of the city and county of Honolulu, chairperson of the
19 Honolulu city council, and manager and chief engineer of the
20 Honolulu board of water supply that issued a public report in
21 November 2023 concerning the remediation of Red Hill following
22 the defueling of the Red Hill Bulk Fuel Storage Facility.

23 "Special fund" means the Red Hill remediation special fund.

1 § -3 **Red Hill remediation authority.** (a) There is
2 established the Red Hill remediation authority, which shall be a
3 body corporate and public instrumentality of the State for the
4 purpose of implementing this chapter; provided that section 26-
5 35 shall not apply to the authority. The authority shall:

6 (1) Facilitate and oversee the remediation of
7 contamination resulting from the Red Hill Bulk Fuel
8 Storage Facility and on other WAI initiatives outlined
9 in the WAI's November 2023 report;

10 (2) Interface with federal entities;

11 (3) Periodically and regularly review:

12 (A) The health status of the ecosystem; and

13 (B) The state of science and opportunities for
14 remediation and rehabilitation;

15 (4) Develop and maintain a public-facing test results
16 dashboard describing the significance of results from
17 the State and city and county of Honolulu, as part of
18 a broader public education program; and

19 (5) Coordinate the implementation of a public information,
20 education, and engagement program to describe, inform,
21 and educate the general public and institutions on the
22 post-defueling remediation phases for Red Hill to
23 restore public trust, secure public support, foster

1 community-based advocacy around remediation efforts,
2 and address health and environmental concerns; and

3 (6) Engage in direct implementation, as appropriate.

4 (b) The authority shall be administratively attached to
5 the department of land and natural resources and governed by a
6 board of directors. All initial members of the authority who
7 are to be appointed shall be appointed no later than January 1,
8 2025.

9 (c) The board of directors shall consist of nine voting
10 members, who shall serve staggered four-year terms. The board of
11 directors shall select among its members a chairperson of the
12 board, to facilitate the convening of meetings and the
13 implementation of the board of director's responsibilities and
14 powers.

15 (d) Five voting members of the board of directors shall be
16 appointed by the following organizations:

17 (1) The Honolulu board of water supply;

18 (2) The Office of Hawaiian Affairs;

19 (3) The Association of Hawaiian Civic Clubs;

20 (4) The director of the Water Resources Research Center at
21 the University of Hawai'i; and

22 (5) The Sierra Club of Hawai'i.

23 (e) Four voting members of the board of directors shall
24 represent the following government entities:

- 1 (1) The chairperson of the board of land and natural
2 resources, or the chairperson's designee;
- 3 (2) The chairperson of the Honolulu city council, or the
4 chairperson's designee;
- 5 (3) The mayor of the city and county of Honolulu, or the
6 mayor's designee; and
- 7 (4) The manager and chief engineer of the Honolulu board
8 of water supply, or the manager and chief engineer's
9 designee.

10 (f) The members of the board of directors shall serve
11 without compensation but shall be reimbursed for expenses,
12 including travel expenses:

13 (1) For authority-related business, as approved by the
14 authority; and

15 (2) Necessary for the performance of their duties.

16 (g) The five community members identified in subsection
17 (d) and the four ex officio members identified in subsection (e)
18 shall appoint an executive director, who shall serve at the
19 pleasure of the board of directors.

20 The executive director shall:

21 (1) Administer and implement, under the direction of the
22 board of directors, all rules and directives adopted
23 by the authority;

- 1 (2) Hire staff or contract with professional service
2 providers with relevant skills and expertise; and
3 (3) Be exempt from chapter 76.

4 The salary of the executive director shall be subject to
5 section 26-53.

6 (h) The board of directors shall invite the following to
7 serve as ex officio, nonvoting members of the board of
8 directors:

9 (1) A representative of the United States Department of
10 Defense designated by the Department of Defense; and

11 (2) A representative of military families.

12 (i) In addition to the members listed in subsections (d),
13 (e), and (h), the board of directors may request the nonvoting
14 participation or input of members of the public; subject-matter
15 experts; county, state, or federal officials; and other
16 individuals, as necessary.

17 § -4 **Powers and duties.** Except as otherwise limited by
18 this chapter, the authority may:

19 (1) Make and execute contracts, leases, and all other
20 instruments necessary or convenient for the exercise
21 of its powers and functions under this chapter;

22 (2) Make and alter bylaws for its organization and
23 internal management;

- 1 (3) Adopt rules pursuant to chapter 91 for the purposes of
2 this chapter;
- 3 (4) Conduct meetings in accordance with chapter 92 for the
4 purposes of this chapter;
- 5 (5) Appoint officers, agents, and employees who may be
6 exempt from chapter 76, prescribe their duties and
7 qualifications, and fix their salaries;
- 8 (6) Engage the services of consultants on a contractual
9 basis for rendering professional and technical
10 assistance and advice;
- 11 (7) Procure insurance against any loss in connection with
12 its property and other assets and operations in
13 amounts and from insurers as it deems desirable;
- 14 (8) Contract for, accept, hold, or expend gifts or grants
15 in any form from any public agency or from any other
16 source;
- 17 (9) Adopt rules governing the procurement and purchase of
18 goods, services, and construction, not subject to the
19 requirements of chapter 103D;
- 20 (10) Enter into cooperative agreements, easements,
21 subleases, or other contracts, as necessary, with any
22 state agency, county agency, or private landowner;
- 23 (11) Contract for executive and administrative employee
24 services;

- 1 (12) Call upon the attorney general for legal services or
2 employ its own counsel in conformity with section 28-
3 8.3;
- 4 (13) Accept donations, grants, bequests, and devises of
5 money, property, services, or other things of value
6 that may be received from the United States or any
7 agency thereof, any governmental agency, or any public
8 or private institution, person, firm, or corporation,
9 to be held, used, or applied for any or all of the
10 purposes specified in this chapter;
- 11 (14) Establish and maintain a website that includes a
12 mission statement and access to related actions,
13 plans, reports, studies, policies, and results; and
- 14 (15) Do any and all things necessary to carry out its
15 purposes and exercise the powers granted in this
16 chapter.

17 § -5 **Red Hill remediation special fund.** (a) There is
18 established in the state treasury the Red Hill remediation
19 special fund into which shall be deposited the following moneys:

20 (1) Appropriations by the legislature to the special fund;

21 (2) Gifts, donations, and grants from public agencies,
22 including the United States government, and private
23 persons; and

1 (3) All interest earned on or accrued to moneys deposited
2 in the special fund.

3 (b) The special fund shall be administered by the
4 authority.

5 (c) The moneys in the special fund shall be used solely
6 for the remediation of contamination resulting from the Red Hill
7 Bulk Fuel Storage Facility, including monitoring, applied
8 research, remediation, public outreach and education and
9 engagement, and evaluation.

10 § -6 **Cooperation by state and county agencies.** All
11 state and county agencies shall provide all information and data
12 requested by the authority within thirty calendar days; provided
13 that the authority may, in its discretion, set a longer
14 deadline.

15 § -7 **Report.** The authority shall submit a report of its
16 activities and expenditures to the legislature, governor, and
17 mayor and city council of the city and county of Honolulu no
18 later than December 1 of each year, beginning in 2026."

19 PART II

20 SECTION 2. The following positions, which shall be exempt
21 from chapter 76, Hawaii Revised Statutes, are established under
22 the authority for the purposes of Red Hill WAI policy
23 coordination and implementation:

24 (1) One full-time equivalent (1.0 FTE) executive director;

- 1 (2) One full-time equivalent (1.0 FTE) community and
2 government outreach coordinator;
- 3 (3) One full-time equivalent (1.0 FTE) administrative
4 assistant;
- 5 (4) One full-time equivalent (1.0 FTE) environmental
6 remediation specialist;
- 7 (5) One full-time equivalent (1.0 FTE) community
8 organizer; and
- 9 (6) One half-time equivalent (0.5 FTE) grantwriter.

10 SECTION 3. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$ or so
12 much thereof as may be necessary for fiscal year 2024-2025 for
13 the positions identified in section 3 of this Act.

14 The sum appropriated shall be expended by the authority for
15 the purposes of this Act.

16 SECTION 4. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ or so
18 much thereof as may be necessary for fiscal year 2024-2025 for
19 ecosystem monitoring of the area surrounding the Red Hill Bulk
20 Fuel Storage Facility by the authority.

21 The sum appropriated shall be expended by the authority for
22 the purposes of this Act.

1 SECTION 5. In accordance with section 9 of article VII of
2 the Hawaii State Constitution and sections 37-91 and 37-93,
3 Hawaii Revised Statutes, the legislature has determined that the
4 appropriations contained in H.B. No. , will cause the state
5 general fund expenditure ceiling for fiscal year 2024-2025 to be
6 exceeded by \$ or per cent. In addition, the
7 appropriations contained in this Act will cause the general fund
8 expenditure ceiling for fiscal year 2024-2025 to be further
9 exceeded by \$ or per cent. The combined total
10 amount of general fund appropriations contained in only these
11 two Acts will cause the state general fund expenditure ceiling
12 for fiscal year 2024-2025 to be exceeded by
13 \$ or per cent. The reasons for exceeding the
14 general fund expenditure ceiling are that:

- 15 (1) The appropriations made in this Act are necessary to
16 serve the public interest; and
17 (2) The appropriations made in this Act meet the needs
18 addressed by this Act.

19 SECTION 6. This Act shall take effect upon its approval.



TESTIMONY FROM THE DEMOCRATIC PARTY OF HAWAII

COMMITTEE REFERRAL: WTL/AEN

MARCH 20, 2024

HB 2690, HD2, RELATING TO WATER

POSITION: SUPPORT

The Democratic Party of Hawai'i **supports** HB 2690, HD2, relating to water. In 2022, delegates to the Democratic Party of Hawai'i's State Convention adopted resolution 2022-11, demanding that the Red Hill fuel tanks and piping infrastructure be expeditiously decommissioned and that new monitoring and exploratory wells be immediately developed.

Ola i ka wai. Water is life.

The United States Navy's Red Hill Bulk Fuel Storage Facility consists of 20 steel-lined underground storage tanks that were built from 1940 to 1943, each of which can store 12.5 million gallons of fuel. In total, the Red Hill Bulk Fuel Storage Facility can store up to 250 million gallons of fuel. The tanks are located only about 100 feet above the United States Environmental Protection Agency's designated sole-source groundwater aquifer that provides drinking water to approximately 4,000 residents of the island of O'ahu.

Over the past eighty years, numerous spills have occurred at Red Hill. Most dramatically, on November 20, 2021, about 93,000 individuals served by the Navy's potable water system for Joint Base Pearl Harbor-Hickam were directly affected when the Navy's Red Hill shaft was contaminated by the release of up to 19,000 gallons of fuel, including JP-5 jet fuel, older fuels stored at the Red Hill Bulk

Fuel Storage Facility, and any additives used. Over 6,000 individuals sought medical attention, and 1,000 were forced to leave their homes due to the contamination. Much of the fuel released from the Red Hill Bulk Fuel Storage Facility remains in the environment, trapped within the complex geological formations that surround the tanks. Notably, this leak also caused the restriction and diversion of Honolulu's water sources to cover losses from contaminated fuel, temporarily endangering the ability of the state and the county to perform vital public services, such as increasing the supply of affordable housing.

Subsequently, On May 9, 2023, officials from the state and City and County of Honolulu signed a unified statement on Red Hill, recognizing the stewardship responsibility to ensure that there is clean water on Oahu for future generations. The Red Hill Water Alliance Initiative (WAI), a working group, met regularly in 2023 after the signing of the unified statement, posing questions, conducting research, listening to subject-matter experts, and formulating policy recommendations to address the Red Hill contamination and prevent future leaks. The working group strived to preserve and protect public trust resources, including water resources that are essential for life to flourish in our island home.

Members of the Red Hill WAI working group focused on the remediation needs after the defueling of the tanks and removal of residual fuel and contaminants from the Red Hill Bulk Fuel Storage Facility. The working group expressed ongoing concerns about fuel contaminants already in the ground, as well as the residual supply of fuel plume in local aquifers because of the spill that occurred on November 20, 2021. The group found that there may be as many as 1,940,000 gallons of fuel constituents in the ground that have leaked or spilled over eight decades. Accordingly, the group believes that remediation is necessary for the future well-being of the aquifer to contain the risk to current and future water sources, including the Halawa Shaft, Halawa wells, and Aiea wells; the water distribution system; and local ecosystems. For the sake of the public trust and future generations of Hawai'i's people, we must adopt the recommendations of the Red Hill WAI working group and empower their important work to continue.

Mahalo nui loa,

Kris Coffield

Co-Chair, Legislative Committee
(808) 679-7454
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Abby Simmons

Co-Chair, Legislative Committee
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Senate Committee on Water & Land /

Senate Committee on Agriculture and Environment

**Hawai'i Alliance for Progressive Action (HAPA) Supports: HB2690 HD2 w/
amendments**

Wednesday, March 20th, 2024 1:15 p.m. Conference Room 229

Aloha Chair Inouye/Gabbard, Vice Chair Elefante/Richards and Members of the Committees,

HAPA supports HB2690 HD2 with amendments. We appreciate that HB2690 HD2 reflects a continued commitment to pursue the full remediation of our lands and waters contaminated by the Navy's Red Hill Bulk Fuel Storage Facility. However, we strongly urge you to amend these measures by:

- 1) Appropriately staffing this entity with individuals who have the requisite relevant expertise (in public relations, grant writing, remediation technology, community organizing, etc.) to meaningfully hold the Navy accountable and realize the WAI Report's vision; and

- 2) Ensuring that this entity is adequately insulated from the military's political influence over Hawai'i's executive and legislative branches, which led to the government inaction that contributed to the poisoning of our 'āina and wai. As it will take decades to fully remediate the contamination from the Red Hill facility, failing to do so will inevitably allow the Navy to exert its influence to excuse its inactions and ultimately evade the accountability these measures seek. Accordingly, any remediation entity should be governed by a board where the majority of its members are appointed by appropriately independent organizations with a vested interest in the integrity of our 'āina and wai. For example, the Honolulu Board of Water Supply, the Association of Hawaiian Civic Clubs, the Office of Hawaiian Affairs, the University of Hawai'i Water Resources Research Center, and the Sierra Club of Hawai'i, and/or other appropriate entities, could and should be allowed to designate members of this board.



Accordingly, I respectfully but strongly urge you to PASS HB2690 HD2 measures with the critical AMENDMENTS listed above.

Mahalo nui for the opportunity to testify.

Respectfully,

A handwritten signature in black ink, appearing to read 'Anne Frederick', is positioned below the word 'Respectfully,'.

Anne Frederick
Executive Director

HB-2690-HD-2

Submitted on: 3/19/2024 10:30:14 PM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Colonel Ann Wright	Testifying for Veterans For Peace, Chapter 113 Hawaii	Support	Written Testimony Only

Comments:

Aloha Chair Inouye, Chair Gabbard, Vice Chair Elefante, Vice Chair Richards, and Members of the Committees,

I am retired US Army Colonel and former US diplomat Ann Wright. I am from Honolulu. I STRONGLY SUPPORT PROPOSED SD1 to HB2690 HD2.

For decades, the state has failed to address longstanding structural issues that have left the Water Commission vulnerable to undue political influence, and unable to take emergency action or enforce the water code against deep-pocket and politically powerful interests.

As we have seen, these structural weaknesses have stymied the Commission’s ability to do anything to meaningfully address the Red Hill water crisis - including the Navy’s ongoing, years-long noncompliance with its water use permits, and the waste of over 3 billion gallons of “essentially drinkable” water and counting from the Red Hill shaft.

Most recently, political influence over the Water Commission and its staff led to the highly questionable, still-unexplained “reassignment” of the former water deputy who, during his tenure, had successfully implemented the water code to a far greater extent than any of his predecessors. Notably, this “reassignment” occurred after misleading statements were made to the Governor’s administration, by an official of a wealthy and politically connected corporation recently fined by the Commission for its illegal water diversions.

The proposed SD1 of this measure would address these weaknesses, originally identified 30 years ago. First, it would allow the Commission members to choose their own Chairperson, and ensure that objective standards - rather than arbitrary and unilateral decisionmaking by the Commission Chair - are used to evaluate the work of Commission staff. Second, the Commission would be authorized to issue meaningful fines - subject to the careful, case-by-case consideration of a number of mitigating and aggravating factors - that may be the only means to hold recalcitrant, deep-pocket water code violators accountable. Finally, the proposed SD1 would allow the Commission to more expediently address water emergencies, such as those threatened by the U.S. Navy, rather than undergo the months- or years-long process currently required under statute.

To strengthen this measure, I respectfully ask that the Proposed SD1 be further amended to 1) place the WAI Policy Coordinator and associated staff under the Water Commission, and NOT the politically appointed Board of Land and Natural Resources Chairperson; and 2) allow the Commission to retain its own independent legal counsel, as proposed under SB3327 SD1.

Accordingly, I respectfully but strongly urge the Committee to ADOPT the Proposed SD1 for HB2690 HD2, with the above-noted amendments.

Mahalo nui for the opportunity to testify.



Hui o Nā Wai 'Ehā

Ola i ka wai WWW.HUIONAWAIEHA.ORG

Hui o Nā Wai 'Ehā
Board of Directors

March 19, 2024

Hōkūao Pellegrino
(President)

To: Senate Water and Land and Agriculture and Environment Committees.

Koa Hewahewa
(Vice President)

Hearing: **March 20, 2024 at 1:15 PM, State Capitol Conference Room**

Lani Eckart-Dodd
(Treasurer)

Re: In Strong Support for HB2690 HD2: Relating to the Commission on Water Resource Management

Lucienne de Naie
(Secretary)

Duke Sevilla
(Founding Board Member)

Aloha e Chair Inouye, Chair Gabbard, Vice Chair Elefante, Vice Chair Richards, and Honorable Committee Members,

Miki'ala Pua'a-Freitas
(Board Member)

My name is Hōkūao Pellegrino, President of Hui o Nā Wai 'Ehā from the island of Maui. I'm testifying today in **STRONG SUPPORT of the Proposed SD1 to HB2690 HD2.**

Ikaika Nakahashi
(Board Member)

For decades, the state has failed to address longstanding structural issues that have left the Water Commission vulnerable to undue political influence, and unable to take emergency action or enforce the water code against deep-pocket and politically powerful interests.

Kōnane Awo DelaNux
(Board Member)

As we have seen, these structural weaknesses have stymied the Commission's ability to do anything to meaningfully address the Red Hill water crisis - including the Navy's ongoing, years-long noncompliance with its water use permits, and the waste of over 3 billion gallons of "essentially drinkable" water and counting from the Red Hill shaft. Most recently, political influence over the Water Commission and its staff led to the highly questionable, still-unexplained "reassignment" of the former water deputy who, during his tenure, had successfully implemented the water code to a far greater extent than any of his predecessors. Notably, this "reassignment" occurred after misleading statements were made to the Governor's administration, by an official of a wealthy and politically connected corporation recently fined by the Commission for its illegal water diversions.

Mariana Löwy-Gerstmar
(Board Member)

Ka'apuni Aiwahi
(Board Member)

Kamalani Uehara
(Board Member)

Kaulu Lu'uwai
(Board Member)

Sesame Shim
(Board Member)

**Maui Tomorrow
(Collaborator)**



Albert Perez
(Executive Director)

Legal Counsel

Isaac Moriwake
(Earthjustice)

The proposed SD1 of this measure would address these weaknesses, originally identified 30 years ago. First, it would allow the Commission members to choose their own Chairperson, and ensure that objective standards - rather than arbitrary and unilateral decision-making by the Commission Chair - are used to evaluate the work of Commission staff. Second, the Commission would be authorized to issue meaningful fines - subject to the careful, case-by-case consideration of a number of mitigating and aggravating factors - that may be the only means to hold recalcitrant,

Hui o Nā Wai 'Ehā (501c3) • 213 West Waikō Road, Wailuku, Maui, Hawaii 96793

(808) 430-4534 • Huionawai4@gmail.com • www.huionawaieha.org •  

The Mission of Hui o Nā Wai 'Ehā is to advocate for the restoration and stewardship of mauka to makai streamflow in Waikapū, Wailuku, Waiehu, Waihe'e Streams (Nā Wai 'Ehā), to protect cultural and natural resources pertaining to traditional and customary practices of Native Hawaiian kuleana kalo farmers and to conduct water resource management education outreach programs for the Maui community.

deep-pocket water code violators accountable. Finally, the proposed SD1 would allow the Commission to more expediently address water emergencies, such as those threatened by the U.S. Navy, rather than undergo the months- or years-long process currently required under statute.

To strengthen this measure, I respectfully ask that the Proposed SD1 be further amended to 1) place the WAI Policy Coordinator and associated staff under the Water Commission, and NOT the politically appointed Board of Land and Natural Resources Chairperson; and 2) allow the Commission to retain its own independent legal counsel, as proposed under SB3327 SD1.

Accordingly, I respectfully but strongly urge the Committee to ADOPT the Proposed SD1 for HB2690 HD2, with the above-noted amendments and make it effective immediately. Mahalo nui for the opportunity to testify.

Ola i ka wai!

Hökūao Pellegrino

Hökūao Pellegrino (Board President)

**Hawaii
Legislative
Council
Members**

Joell Edwards
Wainiha Country
Market
Hanalei

Russell Ruderman
Island Naturals
Hilo/Kona

Dr. Andrew Johnson
Niko Niko Family
Dentistry
Honolulu

Robert H. Pahia
Hawaii Taro Farm
Wailuku

Maile Meyer
Na Mea Hawaii
Honolulu

Tina Wildberger
Kihei Ice
Kihei

L. Malu Shizue Miki
Abundant Life
Natural Foods
Hilo

Kim Coco Iwamoto
Enlightened Energy
Honolulu

Chamber of
Sustainable
Commerce
P.O. Box 22394
Honolulu, HI
96823

Senator Lorraine R. Inouye, Chair
Senator Brandon J.C. Elefante, Vice Chair
Committee on Water and Land

Senator Mike Gabbard, Chair
Senator Herbert M. "Tim" Richards, III, Vice Chair
Comm. on Agriculture and Environment

Wednesday, March 20, 2024
1:15 PM Room 229

RE: **HB2690 HD2 SD1** Relating to Water - **Support with Amendments**

Dear Chairs Inouye & Gabbard, Vice-Chairs Elefante & Richards and
Members of both Committees,

The Chamber of Sustainable Commerce represents over 100 small businesses across the State that strive for a triple bottom line: people, planet and prosperity; we know Hawaii can strengthen its economy without hurting workers, consumers, communities or the environment.

This is why we are in support of HB2690 HD2 with amendments found in SD1 and additional amendments listed below. Many of our members are small farmers who rely on access to water; they cannot afford to compete financially or politically against the large corporate lobbyists who have diverted water towards their clients' interests.

First, SD1 would allow the Commission members to choose their own Chairperson, and ensure that objective standards - rather than arbitrary and unilateral decision-making by the Commission Chair - are used to evaluate the work of Commission staff. Second, the Commission would be authorized to issue meaningful fines - subject to the careful, case-by-case consideration of a number of mitigating and aggravating factors - that may be the only means to hold recalcitrant, deep-pocket water code violators accountable. Finally, the proposed SD1 would allow the Commission to more expediently address water emergencies, such as those threatened by the U.S. Navy, rather than undergo the months- or years-long process currently required under statute.

To strengthen HB2690, we urge your committees to make additional amendments to the SD1: 1) place the WAI Policy Coordinator and associated staff under the Water Commission, and NOT the politically appointed Board of Land and Natural Resources Chairperson; and 2) allow the Commission to retain its own independent legal counsel, as proposed under SB3327 SD1.



HB-2690-HD-2

Submitted on: 3/20/2024 3:46:39 AM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Kupuna for the Mo'opuna	Testifying for Kupuna for the Moopuna	Support	Written Testimony Only

Comments:

IN STRONG SUPPORT of the PROPOSED SD1 to HB2690 HD2.

Please strengthen this measure with further amendments to 1) place the WAI Policy Coordinator and associated staff under the Water Commission, and NOT the politically appointed Board of Land and Natural Resources Chairperson; and 2) allow the Commission to retain its own independent legal counsel, as proposed under SB3327 SD1.

Accordingly, I respectfully but strongly urge the Committee to ADOPT the Proposed SD1 for HB2690 HD2, with the above-noted amendments.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Thirty-Second Legislature, State of Hawaii
The Senate
Committee on Water and Land
Committee on Agriculture and Environment

Testimony by
Hawaii Government Employees Association

March 20, 2024

H.B. 2690, H.D. 2, S.D. 1 (Proposed) — RELATING TO WATER.

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO **supports the concept of H.B. 2690, H.D. 2, S.D. 1 (Proposed)** which establishes a WAI Policy Coordinator and other positions within the Department of Land and Natural Resources for coordination of Red Hill WAI initiatives and repeals the position of deputy to the chairperson of the Commission and establishes the position of executive director of the Commission and amends the composition of the Commission and administratively attaches it to DLNR.

Thank you for the opportunity to provide testimony in support of H.B. 2690, H.D. 2, S.D. 1 (Proposed).

Respectfully submitted,

Randy Perreira
Executive Director

HB-2690-HD-2

Submitted on: 3/19/2024 10:32:11 AM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Sherry Pollack	Individual	Comments	Written Testimony Only

Comments:

It is critical we ensure that steps are taken for the full remediation of our lands and waters contaminated by the Navy's Red Hill Bulk Fuel Storage Facility.

I strongly urge you to amend this measure with the following recommendations:

--Ensure that the entity working on this is adequately insulated from the military's political influence over Hawai'i's executive and legislative branches, which led to the governmental inaction that contributed to the poisoning of our 'āina and wai. As it will take decades to fully remediate the contamination from the Red Hill facility, failing to do so will inevitably allow the Navy to exert its influence to excuse its inactions and ultimately evade the accountability these measures seek.

--Any remediation entity should be governed by a board where the majority of its members are appointed by appropriately independent organizations with a vested interest in the integrity of our 'āina and wai. For example, the Honolulu Board of Water Supply, the Association of Hawaiian Civic Clubs, the Office of Hawaiian Affairs, the University of Hawai'i Water Resources Research Center, and the Sierra Club of Hawai'i, and/or other appropriate entities, could and should be allowed to designate members of this board.

Mahalo for the opportunity to testify.

HB-2690-HD-2

Submitted on: 3/19/2024 9:24:06 PM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Bo Breda	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Inouye, Chair Gabbard, Vice Chair Elefante, Vice Chair Richards, and Members of the Committees,

My name is Bo Breda and I am from Bo Breda I stand in STRONG SUPPORT of the PROPOSED SD1 to HB2690 HD2.

For decades, the state has failed to address longstanding structural issues that have left the Water Commission vulnerable to undue political influence, and unable to take emergency action or enforce the water code against deep-pocket and politically powerful interests.

As we have seen, these structural weaknesses have stymied the Commission’s ability to do anything to meaningfully address the Red Hill water crisis - including the Navy’s ongoing, years-long noncompliance with its water use permits, and the waste of over 3 billion gallons of “essentially drinkable” water and counting from the Red Hill shaft.

Most recently, political influence over the Water Commission and its staff led to the highly questionable, still-unexplained “reassignment” of the former water deputy who, during his tenure, had successfully implemented the water code to a far greater extent than any of his predecessors. Notably, this “reassignment” occurred after misleading statements were made to the Governor’s administration, by an official of a wealthy and politically connected corporation recently fined by the Commission for its illegal water diversions.

The proposed SD1 of this measure would address these weaknesses, originally identified 30 years ago. First, it would allow the Commission members to choose their own Chairperson, and ensure that objective standards - rather than arbitrary and unilateral decisionmaking by the Commission Chair - are used to evaluate the work of Commission staff. Second, the Commission would be authorized to issue meaningful fines - subject to the careful, case-by-case consideration of a number of mitigating and aggravating factors - that may be the only means to hold recalcitrant, deep-pocket water code violators accountable. Finally, the proposed SD1 would allow the Commission to more expediently address water emergencies, such as those threatened by the U.S. Navy, rather than undergo the months- or years-long process currently required under statute.

To strengthen this measure, I respectfully ask that the Proposed SD1 be further amended to 1) place the WAI Policy Coordinator and associated staff under the Water Commission, and NOT

the politically appointed Board of Land and Natural Resources Chairperson; and 2) allow the Commission to retain its own independent legal counsel, as proposed under SB3327 SD1.

Accordingly, I respectfully but strongly urge the Committee to ADOPT the Proposed SD1 for HB2690 HD2, with the above-noted amendments.

Mahalo nui for the opportunity to testify.

HB-2690-HD-2

Submitted on: 3/19/2024 9:24:18 PM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Noel Shaw	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Inouye, Chair Gabbard, Vice Chair Elefante, Vice Chair Richards, and Members of the Committees,

My name is Noel Shaw and I am from Kalāwahine. I stand in STRONG SUPPORT of the PROPOSED SD1 to HB2690 HD2.

For decades, the state has failed to address longstanding structural issues that have left the Water Commission vulnerable to undue political influence, and unable to take emergency action or enforce the water code against deep-pocket and politically powerful interests.

As we have seen, these structural weaknesses have stymied the Commission’s ability to do anything to meaningfully address the Red Hill water crisis - including the Navy’s ongoing, years-long noncompliance with its water use permits, and the waste of over 3 billion gallons of “essentially drinkable” water and counting from the Red Hill shaft.

Most recently, political influence over the Water Commission and its staff led to the highly questionable, still-unexplained “reassignment” of the former water deputy who, during his tenure, had successfully implemented the water code to a far greater extent than any of his predecessors. Notably, this “reassignment” occurred after misleading statements were made to the Governor’s administration, by an official of a wealthy and politically connected corporation recently fined by the Commission for its illegal water diversions.

The proposed SD1 of this measure would address these weaknesses, originally identified 30 years ago. First, it would allow the Commission members to choose their own Chairperson, and ensure that objective standards - rather than arbitrary and unilateral decisionmaking by the Commission Chair - are used to evaluate the work of Commission staff. Second, the Commission would be authorized to issue meaningful fines - subject to the careful, case-by-case consideration of a number of mitigating and aggravating factors - that may be the only means to hold recalcitrant, deep-pocket water code violators accountable. Finally, the proposed SD1 would allow the Commission to more expediently address water emergencies, such as those threatened by the U.S. Navy, rather than undergo the months- or years-long process currently required under statute.

To strengthen this measure, I respectfully ask that the Proposed SD1 be further amended to 1) place the WAI Policy Coordinator and associated staff under the Water Commission, and NOT

the politically appointed Board of Land and Natural Resources Chairperson; and 2) allow the Commission to retain its own independent legal counsel, as proposed under SB3327 SD1.

Accordingly, I respectfully but strongly urge the Committee to ADOPT the Proposed SD1 for HB2690 HD2, with the above-noted amendments.

Mahalo nui for the opportunity to testify.

HB-2690-HD-2

Submitted on: 3/19/2024 9:25:23 PM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Peter Wilson	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Inouye, Chair Gabbard, Vice Chair Elefante, Vice Chair Richards, and Members of the Committees,

My name is Peter Wilson and I am from Pahoa. I stand in STRONG SUPPORT of the PROPOSED SD1 to HB2690 HD2.

For decades, the state has failed to address longstanding structural issues that have left the Water Commission vulnerable to undue political influence, and unable to take emergency action or enforce the water code against deep-pocket and politically powerful interests.

As we have seen, these structural weaknesses have stymied the Commission's ability to do anything to meaningfully address the Red Hill water crisis - including the Navy's ongoing, years-long noncompliance with its water use permits, and the waste of over 3 billion gallons of "essentially drinkable" water and counting from the Red Hill shaft.

Most recently, political influence over the Water Commission and its staff led to the highly questionable, still-unexplained "reassignment" of the former water deputy who, during his tenure, had successfully implemented the water code to a far greater extent than any of his predecessors. Notably, this "reassignment" occurred after misleading statements were made to the Governor's administration, by an official of a wealthy and politically connected corporation recently fined by the Commission for its illegal water diversions.

The proposed SD1 of this measure would address these weaknesses, originally identified 30 years ago. First, it would allow the Commission members to choose their own Chairperson, and ensure that objective standards - rather than arbitrary and unilateral decisionmaking by the Commission Chair - are used to evaluate the work of Commission staff. Second, the Commission would be authorized to issue meaningful fines - subject to the careful, case-by-case consideration of a number of mitigating and aggravating factors - that may be the only means to hold recalcitrant, deep-pocket water code violators accountable. Finally, the proposed SD1 would allow the Commission to more expediently address water emergencies, such as those threatened by the U.S. Navy, rather than undergo the months- or years-long process currently required under statute.

To strengthen this measure, I respectfully ask that the Proposed SD1 be further amended to 1) place the WAI Policy Coordinator and associated staff under the Water Commission, and NOT

the politically appointed Board of Land and Natural Resources Chairperson; and 2) allow the Commission to retain its own independent legal counsel, as proposed under SB3327 SD1.

Accordingly, I respectfully but strongly urge the Committee to ADOPT the Proposed SD1 for HB2690 HD2, with the above-noted amendments.

Mahalo nui for the opportunity to testify.

HB-2690-HD-2

Submitted on: 3/19/2024 9:46:30 PM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Karen Luke	Individual	Support	Written Testimony Only

Comments:

Aloha,

I support HB2690, HD2, and the proposed SD1. Water is not a political football and should not be influenced by a few players.

The Commission should choose its own Chair with objective standards. They need teeth to hold bad players accountable. SD1 holds promise to address these matters and future emergencies., especially those caused by the Navy. Placing the WAI Policy coordinator and staff under the Water Commission would also help. They also need an independent legal counsel.

Please adopt 2690, HD2, and the proposed SD1.

Mahalo,

Karen in Ewa Beach

HB-2690-HD-2

Submitted on: 3/19/2024 9:48:27 PM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Barbara Barry	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Inouye, Chair Gabbard, Vice Chair Elefante, Vice Chair Richards, and Members of the Committees,

My name is Barbara Barry and I am from Maui. I stand in STRONG SUPPORT of the PROPOSED SD1 to HB2690 HD2.

For decades, the state has failed to address longstanding structural issues that have left the Water Commission vulnerable to undue political influence, and unable to take emergency action or enforce the water code against deep-pocket and politically powerful interests.

As we have seen, these structural weaknesses have stymied the Commission's ability to do anything to meaningfully address the Red Hill water crisis - including the Navy's ongoing, years-long noncompliance with its water use permits, and the waste of over 3 billion gallons of "essentially drinkable" water and counting from the Red Hill shaft.

Most recently, political influence over the Water Commission and its staff led to the highly questionable, still-unexplained "reassignment" of the former water deputy who, during his tenure, had successfully implemented the water code to a far greater extent than any of his predecessors. Notably, this "reassignment" occurred after misleading statements were made to the Governor's administration, by an official of a wealthy and politically connected corporation recently fined by the Commission for its illegal water diversions.

The proposed SD1 of this measure would address these weaknesses, originally identified 30 years ago. First, it would allow the Commission members to choose their own Chairperson, and ensure that objective standards - rather than arbitrary and unilateral decisionmaking by the Commission Chair - are used to evaluate the work of Commission staff. Second, the Commission would be authorized to issue meaningful fines - subject to the careful, case-by-case consideration of a number of mitigating and aggravating factors - that may be the only means to hold recalcitrant, deep-pocket water code violators accountable. Finally, the proposed SD1 would allow the Commission to more expediently address water emergencies, such as those threatened by the U.S. Navy, rather than undergo the months- or years-long process currently required under statute.

To strengthen this measure, I respectfully ask that the Proposed SD1 be further amended to 1) place the WAI Policy Coordinator and associated staff under the Water Commission, and NOT

the politically appointed Board of Land and Natural Resources Chairperson; and 2) allow the Commission to retain its own independent legal counsel, as proposed under SB3327 SD1.

Accordingly, I respectfully but strongly urge the Committee to ADOPT the Proposed SD1 for HB2690 HD2, with the above-noted amendments.

Mahalo nui for the opportunity to testify.

HB-2690-HD-2

Submitted on: 3/19/2024 9:55:33 PM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Breanne Fong	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Inouye, Chair Gabbard, Vice Chair Elefante, Vice Chair Richards, and Members of the Committees,

My name is Breanne Fong, and I am from Kaimukī on the island of O'ahu. I stand in STRONG SUPPORT of the PROPOSED SD1 to HB2690 HD2.

For decades, the state has failed to address longstanding structural issues that have left the Water Commission vulnerable to undue political influence, and unable to take emergency action or enforce the water code against deep-pocket and politically powerful interests.

As we have seen, these structural weaknesses have stymied the Commission's ability to do anything to meaningfully address the Red Hill water crisis - including the Navy's ongoing, years-long noncompliance with its water use permits, and the waste of over 3 billion gallons of "essentially drinkable" water and counting from the Red Hill shaft.

Most recently, political influence over the Water Commission and its staff led to the highly questionable, still-unexplained "reassignment" of the former water deputy who, during his tenure, had successfully implemented the water code to a far greater extent than any of his predecessors. Notably, this "reassignment" occurred after misleading statements were made to the Governor's administration, by an official of a wealthy and politically connected corporation recently fined by the Commission for its illegal water diversions.

The proposed SD1 of this measure would address these weaknesses, originally identified 30 years ago. First, it would allow the Commission members to choose their own Chairperson, and ensure that objective standards - rather than arbitrary and unilateral decisionmaking by the Commission Chair - are used to evaluate the work of Commission staff. Second, the Commission would be authorized to issue meaningful fines - subject to the careful, case-by-case consideration of a number of mitigating and aggravating factors - that may be the only means to hold recalcitrant, deep-pocket water code violators accountable. Finally, the proposed SD1 would allow the Commission to more expediently address water emergencies, such as those threatened by the U.S. Navy, rather than undergo the months- or years-long process currently required under statute.

To strengthen this measure, I respectfully ask that the Proposed SD1 be further amended to 1) place the WAI Policy Coordinator and associated staff under the Water Commission, and NOT

the politically appointed Board of Land and Natural Resources Chairperson; and 2) allow the Commission to retain its own independent legal counsel, as proposed under SB3327 SD1.

Accordingly, I respectfully but strongly urge the Committee to ADOPT the Proposed SD1 for HB2690 HD2, with the above-noted amendments.

Mahalo nui for the opportunity to testify.

To: Senate Water and Land and Agriculture and Environment Committees
RE: Testimony in support of HB2690 HD2 SD1: Relating to Water
Date: March 19, 2024

Aloha Chair Inouye, Chair Gabbard, Vice Chair Elefante, Vice Chair Richards, and Members of the Committees,

My name is Candace Fujikane, and I live in Kāneʻohe. I'm testifying in strong support of the Proposed SD1 to HB2690 HD2. I am an English professor at the University of Hawai'i where I teach my students about struggles to protect lands and waters in Hawai'i, and in my ENG 388 "Literature and the Environment" course, we are closely following the movement of HB2690 HD2 SD1. Many of my students are interested in law and will go on to work in legal arenas involving environmental justice.

I urge you to support the PROPOSED SD1 to HB2690 HD2, which will implement measures recommended by the 1994 Review on the Commission on Water Resources Management.

**The Review Commission's recommendations for improving the Code emphasized:
1. Reorganizing the administrative structure of the Commission on Water Resource Management to ensure independence from the Department of Land and Natural Resources**

The Review Commission found that CWRM required increased independence from DLNR to protect and manage water for the use of all residents of Hawai'i.

Why has this recommendation not been implemented?

I was one of the hundreds of people who gave testimony for twelve hours at the September 19, 2023 CWRM meeting demanding the reinstatement of Deputy Director Kaleo Manuel, who had been wrongly accused of denying the people of Lahaina water they needed for the August wildfires, and was "redeployed" without an investigation. The public is well aware of the political nature of that "redeployment" of Manuel by the Chair of BLNR. The public learned about the corporate attempts of West Maui Land Company to take down newly established June 2022 Water Management Area protections for Maui Komohana by suggesting that kuleana land holders and Water Commission Deputy Director Kaleo Manuel were at fault for preventing water from being used to fight the fire. The public now knows that this is false. Kaleo Manuel was targeted by developers precisely because of his pono leadership. During the fires, water diverters in multi-million dollar homes filled their pools, and reservoirs and the streams ran dry, leaving kuleana landholders vulnerable to the fires.

When the DLNR Director "redeployed" Manuel, the public immediately saw the political nature of that decision, and it underscores the need for CWRM to have its own Executive Director with greater autonomy. In that moment, DLNR lost the public trust, and we see how vulnerable CWRM is to political interests of the wealthy.

Residents of Lahaina flew to O‘ahu to ask that DLNR reinstate Manuel at a time when they were still grieving for their loved ones and the homes and trying to figure out how they would survive. It was unthinkable that they had to fly at that time to O‘ahu, burdened with a kuleana of protecting Manuel, a man of integrity who had been wrongfully removed from his position. They should not have had to go to such extremes to protect the autonomy of the Water Commission.

The proposed SD1 of this measure would ensure that our Water Commission will not be further hindered or influenced by this kind of politicking. The people of Maui Komohana cannot focus the water issues that directly affect their communities if CWRM is under constant threat by the BLNR chairperson and the influence of the governor. As we have seen, those with influence over the Governor, including corporations who engage in water banking, have obstructed the work of the Commission.

HB2690 HD2 SD1 will do the right thing by enabling the Commission to choose its own Chair. The Commission would be authorized to issue meaningful fines enforce the water code. SD1 would also enable the Commission to address water emergencies rather than suffering months or years of delay currently required under statute.

I also ask that the Proposed SD1 be amended to 1) place the Water Alliance Initiative (WAI) Policy Coordinator and staff under the Water Commission and not under the Board of Land and Natural Resources Chairperson; and 2) allow the Commission to retain its own independent legal counsel. This measure will ensure that the CWRM Director can make decisions that will benefit all people in Hawai‘i without fear of political retribution.

I urge you to support the Proposed SD1 to HB2690 HD2 with the above amendments.

Me ke aloha,
Candace Fujikane
Professor of English
University of Hawai‘i

HB-2690-HD-2

Submitted on: 3/19/2024 10:13:26 PM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Sharde Freitas	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Inouye, Chair Gabbard, Vice Chair Elefante, Vice Chair Richards, and Members of the Committees,

My name is Sharde Freitas, and I stand in **STRONG SUPPORT** of the PROPOSED SD1 to HB2690 HD2.

For decades, the state has failed to address longstanding structural issues that have left the Water Commission vulnerable to undue political influence, and unable to take emergency action or enforce the water code against deep-pocket and politically powerful interests.

As we have seen, these structural weaknesses have stymied the Commission’s ability to do anything to meaningfully address the Red Hill water crisis - including the Navy’s ongoing, years-long noncompliance with its water use permits, and the waste of over 3 billion gallons of “essentially drinkable” water and counting from the Red Hill shaft.

Most recently, political influence over the Water Commission and its staff led to the highly questionable, still-unexplained “reassignment” of the former water deputy who, during his tenure, had successfully implemented the water code to a far greater extent than any of his predecessors. Notably, this “reassignment” occurred after misleading statements were made to the Governor’s administration, by an official of a wealthy and politically connected corporation recently fined by the Commission for its illegal water diversions.

The proposed SD1 of this measure would address these weaknesses, originally identified 30 years ago. First, it would allow the Commission members to choose their own Chairperson, and ensure that objective standards - rather than arbitrary and unilateral decisionmaking by the Commission Chair - are used to evaluate the work of Commission staff. Second, the Commission would be authorized to issue meaningful fines - subject to the careful, case-by-case consideration of a number of mitigating and aggravating factors - that may be the only means to hold recalcitrant, deep-pocket water code violators accountable. Finally, the proposed SD1 would allow the Commission to more expediently address water emergencies, such as those threatened by the U.S. Navy, rather than undergo the months- or years-long process currently required under statute.

To strengthen this measure, I respectfully ask that the Proposed SD1 be further amended to 1) place the WAI Policy Coordinator and associated staff under the Water Commission,

and NOT the politically appointed Board of Land and Natural Resources Chairperson; and 2) allow the Commission to retain its own independent legal counsel, as proposed under SB3327 SD1.

Accordingly, I respectfully but strongly urge the Committee to **ADOPT the Proposed SD1 for HB2690 HD2, with the above-noted amendments.**

Mahalo nui for the opportunity to testify.

HB-2690-HD-2

Submitted on: 3/19/2024 10:34:45 PM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Diane Ware	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Inouye, Chair Gabbard, Vice Chair Elefante, Vice Chair Richards, and Members of the Committees,

My name is Diane Ware and I am from Ka'u. I stand in STRONG SUPPORT of the PROPOSED SD1 to HB2690 HD2.

For decades, the state has failed to address longstanding structural issues that have left the Water Commission vulnerable to undue political influence, and unable to take emergency action or enforce the water code against deep-pocket and politically powerful interests.

As we have seen, these structural weaknesses have stymied the Commission's ability to do anything to meaningfully address the Red Hill water crisis - including the Navy's ongoing, years-long noncompliance with its water use permits, and the waste of over 3 billion gallons of "essentially drinkable" water and counting from the Red Hill shaft.

Most recently, political influence over the Water Commission and its staff led to the highly questionable, still-unexplained "reassignment" of the former water deputy who, during his tenure, had successfully implemented the water code to a far greater extent than any of his predecessors. Notably, this "reassignment" occurred after misleading statements were made to the Governor's administration, by an official of a wealthy and politically connected corporation recently fined by the Commission for its illegal water diversions.

The proposed SD1 of this measure would address these weaknesses, originally identified 30 years ago. First, it would allow the Commission members to choose their own Chairperson, and ensure that objective standards - rather than arbitrary and unilateral decisionmaking by the Commission Chair - are used to evaluate the work of Commission staff. Second, the Commission would be authorized to issue meaningful fines - subject to the careful, case-by-case consideration of a number of mitigating and aggravating factors - that may be the only means to hold recalcitrant, deep-pocket water code violators accountable. Finally, the proposed SD1 would allow the Commission to more expediently address water emergencies, such as those threatened by the U.S. Navy, rather than undergo the months- or years-long process currently required under statute.

To strengthen this measure, I respectfully ask that the Proposed SD1 be further amended to 1) place the WAI Policy Coordinator and associated staff under the Water Commission, and NOT

the politically appointed Board of Land and Natural Resources Chairperson; and 2) allow the Commission to retain its own independent legal counsel, as proposed under SB3327 SD1.

Accordingly, I respectfully but strongly urge the Committee to ADOPT the Proposed SD1 for HB2690 HD2, with the above-noted amendments.

Mahalo nui for the opportunity to testify.

HB-2690-HD-2

Submitted on: 3/19/2024 10:39:35 PM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Steven Slater	Individual	Support	Written Testimony Only

Comments:

As a permanent resident of Maui for over 41 years, I strongly support this bill. I have been to countless meetings and public hearings concerning our East Maui water situation during those 40 years. A failure to protect our fair share right to water has been the legacy. This bill is a small but important step in the partial righting of so many years of wrong/corrupt policies.

HB-2690-HD-2

Submitted on: 3/19/2024 10:40:47 PM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Thomas Gourley	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Inouye, Chair Gabbard, Vice Chair Elefante, Vice Chair Richards, and Members of the Committees,

My name is Tom Gourley___ and I am from _Maui_. I stand in STRONG SUPPORT of the PROPOSED SD1 to HB2690 HD2.

For decades, the state has failed to address longstanding structural issues that have left the Water Commission vulnerable to undue political influence, and unable to take emergency action or enforce the water code against deep-pocket and politically powerful interests.

As we have seen, these structural weaknesses have stymied the Commission’s ability to do anything to meaningfully address the Red Hill water crisis - including the Navy’s ongoing, years-long noncompliance with its water use permits, and the waste of over 3 billion gallons of “essentially drinkable” water and counting from the Red Hill shaft.

Most recently, political influence over the Water Commission and its staff led to the highly questionable, still-unexplained “reassignment” of the former water deputy who, during his tenure, had successfully implemented the water code to a far greater extent than any of his predecessors. Notably, this “reassignment” occurred after misleading statements were made to the Governor’s administration, by an official of a wealthy and politically connected corporation recently fined by the Commission for its illegal water diversions.

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To strengthen this measure, I respectfully ask that the Proposed SD1 be further amended to 1) place the WAI Policy Coordinator and associated staff under the Water Commission, and NOT

the politically appointed Board of Land and Natural Resources Chairperson; and 2) allow the Commission to retain its own independent legal counsel, as proposed under SB3327 SD1.

Accordingly, I respectfully but strongly urge the Committee to ADOPT the Proposed SD1 for HB2690 HD2, with the above-noted amendments.

Mahalo

Tom Gourley

HB-2690-HD-2

Submitted on: 3/19/2024 10:59:31 PM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Stacey Alapai	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Inouye, Chair Gabbard, Vice Chair Elefante, Vice Chair Richards, and Members of the Committees,

My name is Stacey and I am from Makawao, Maui. I stand in STRONG SUPPORT of the PROPOSED SD1 to HB2690 HD2.

For decades, the state has failed to address longstanding structural issues that have left the Water Commission vulnerable to undue political influence, and unable to take emergency action or enforce the water code against deep-pocket and politically powerful interests.

As we have seen, these structural weaknesses have stymied the Commission's ability to do anything to meaningfully address the Red Hill water crisis - including the Navy's ongoing, years-long noncompliance with its water use permits, and the waste of over 3 billion gallons of "essentially drinkable" water and counting from the Red Hill shaft.

Most recently, political influence over the Water Commission and its staff led to the highly questionable, still-unexplained "reassignment" of the former water deputy who, during his tenure, had successfully implemented the water code to a far greater extent than any of his predecessors. Notably, this "reassignment" occurred after misleading statements were made to the Governor's administration, by an official of a wealthy and politically connected corporation recently fined by the Commission for its illegal water diversions.

The proposed SD1 of this measure would address these weaknesses, originally identified 30 years ago. First, it would allow the Commission members to choose their own Chairperson, and ensure that objective standards - rather than arbitrary and unilateral decisionmaking by the Commission Chair - are used to evaluate the work of Commission staff. Second, the Commission would be authorized to issue meaningful fines - subject to the careful, case-by-case consideration of a number of mitigating and aggravating factors - that may be the only means to hold recalcitrant, deep-pocket water code violators accountable. Finally, the proposed SD1 would allow the Commission to more expediently address water emergencies, such as those threatened by the U.S. Navy, rather than undergo the months- or years-long process currently required under statute.

To strengthen this measure, I respectfully ask that the Proposed SD1 be further amended to 1) place the WAI Policy Coordinator and associated staff under the Water Commission, and NOT

the politically appointed Board of Land and Natural Resources Chairperson; and 2) allow the Commission to retain its own independent legal counsel, as proposed under SB3327 SD1.

Accordingly, I respectfully but strongly urge the Committee to ADOPT the Proposed SD1 for HB2690 HD2, with the above-noted amendments.

Mahalo nui for the opportunity to testify

HB-2690-HD-2

Submitted on: 3/20/2024 1:35:34 AM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
John NAYLOR	Individual	Support	Written Testimony Only

Comments:

Aloha,

I stand in STRONG SUPPORT of the PROPOSED SD1 to HB2690 HD2.

Mahalo,

JN Makawao

HB-2690-HD-2

Submitted on: 3/20/2024 5:00:23 AM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Robert Culbertson	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Inouye, Chair Gabbard, Vice Chair Elefante, Vice Chair Richards, and Members of the Committees,

My name is Rob Culbertson and I am from Honokaa. I stand in STRONG SUPPORT of the PROPOSED SD1 to HB2690 HD2.

For decades, the state has failed to address longstanding structural issues that have left the Water Commission vulnerable to undue political influence, and unable to take emergency action or enforce the water code against deep-pocket and politically powerful interests.

As we have seen, these structural weaknesses have stymied the Commission's ability to do anything to meaningfully address the Red Hill water crisis - including the Navy's ongoing, years-long noncompliance with its water use permits, and the waste of over 3 billion gallons of "essentially drinkable" water and counting from the Red Hill shaft.

Most recently, political influence over the Water Commission and its staff led to the highly questionable, still-unexplained "reassignment" of the former water deputy who, during his tenure, had successfully implemented the water code to a far greater extent than any of his predecessors. Notably, this "reassignment" occurred after misleading statements were made to the Governor's administration, by an official of a wealthy and politically connected corporation recently fined by the Commission for its illegal water diversions.

The proposed SD1 of this measure would address these weaknesses, originally identified 30 years ago. First, it would allow the Commission members to choose their own Chairperson, and ensure that objective standards - rather than arbitrary and unilateral decisionmaking by the Commission Chair - are used to evaluate the work of Commission staff. Second, the Commission would be authorized to issue meaningful fines - subject to the careful, case-by-case consideration of a number of mitigating and aggravating factors - that may be the only means to hold recalcitrant, deep-pocket water code violators accountable. Finally, the proposed SD1 would allow the Commission to more expediently address water emergencies, such as those threatened by the U.S. Navy, rather than undergo the months- or years-long process currently required under statute.

To strengthen this measure, I respectfully ask that the Proposed SD1 be further amended to 1) place the WAI Policy Coordinator and associated staff under the Water Commission, and NOT

the politically appointed Board of Land and Natural Resources Chairperson; and 2) allow the Commission to retain its own independent legal counsel, as proposed under SB3327 SD1.

Accordingly, I respectfully but strongly urge the Committee to ADOPT the Proposed SD1 for HB2690 HD2, with the above-noted amendments.

Thank You,

R A Culbertson

Honokaa

HB-2690-HD-2

Submitted on: 3/20/2024 5:09:56 AM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
De Austin	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Inouye, Chair Gabbard, Vice Chair Elefante, Vice Chair Richards, and Members of the Committees,

I stand in STRONG SUPPORT of the PROPOSED SD1 to HB2690 HD2.

For decades, the state has failed to address longstanding structural issues that have left the Water Commission vulnerable to undue political influence, and unable to take emergency action or enforce the water code against deep-pocket and politically powerful interests.

As we have seen, these structural weaknesses have stymied the Commission's ability to do anything to meaningfully address the Red Hill water crisis - including the Navy's ongoing, years-long noncompliance with its water use permits, and the waste of over 3 billion gallons of "essentially drinkable" water and counting from the Red Hill shaft.

Most recently, political influence over the Water Commission and its staff led to the highly questionable, still-unexplained "reassignment" of the former water deputy who, during his tenure, had successfully implemented the water code to a far greater extent than any of his predecessors. Notably, this "reassignment" occurred after misleading statements were made to the Governor's administration, by an official of a wealthy and politically connected corporation recently fined by the Commission for its illegal water diversions.

The proposed SD1 of this measure would address these weaknesses, originally identified 30 years ago. First, it would allow the Commission members to choose their own Chairperson, and ensure that objective standards - rather than arbitrary and unilateral decisionmaking by the Commission Chair - are used to evaluate the work of Commission staff. Second, the Commission would be authorized to issue meaningful fines - subject to the careful, case-by-case consideration of a number of mitigating and aggravating factors - that may be the only means to hold recalcitrant, deep-pocket water code violators accountable. Finally, the proposed SD1 would allow the Commission to more expediently address water emergencies, such as those threatened by the U.S. Navy, rather than undergo the months- or years-long process currently required under statute.

To strengthen this measure, I respectfully ask that the Proposed SD1 be further amended to 1) place the WAI Policy Coordinator and associated staff under the Water Commission, and NOT the politically appointed Board of Land and Natural Resources Chairperson; and 2) allow the

Commission to retain its own independent legal counsel, as proposed under SB3327 SD1.

Accordingly, I respectfully but strongly urge the Committee to ADOPT the Proposed SD1 for HB2690 HD2, with the above-noted amendments.

Mahalo nui for the opportunity to testify.

De Austin

Kihei, Maui

HB-2690-HD-2

Submitted on: 3/20/2024 7:39:33 AM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Elizabeth Nelson	Individual	Support	Written Testimony Only

Comments:

I strongly support the Proposed SD1 to HB2690 HD2.. Please vote yes. Thank you.

Elizabeth Nelson

HB-2690-HD-2

Submitted on: 3/20/2024 8:26:56 AM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Eduardo A. Gandolfo	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Inouye, Chair Gabbard, Vice Chair Elefante, Vice Chair Richards, and Members of the Committees,

My name is Eduardo A. Gandolfo and I am from Kihei. I stand in STRONG SUPPORT of the PROPOSED SD1 to HB2690 HD2.

For decades, the state has failed to address longstanding structural issues that have left the Water Commission vulnerable to undue political influence, and unable to take emergency action or enforce the water code against deep-pocket and politically powerful interests.

As we have seen, these structural weaknesses have stymied the Commission's ability to do anything to meaningfully address the Red Hill water crisis - including the Navy's ongoing, years-long noncompliance with its water use permits, and the waste of over 3 billion gallons of "essentially drinkable" water and counting from the Red Hill shaft.

Most recently, political influence over the Water Commission and its staff led to the highly questionable, still-unexplained "reassignment" of the former water deputy who, during his tenure, had successfully implemented the water code to a far greater extent than any of his predecessors. Notably, this "reassignment" occurred after misleading statements were made to the Governor's administration, by an official of a wealthy and politically connected corporation recently fined by the Commission for its illegal water diversions.

The proposed SD1 of this measure would address these weaknesses, originally identified 30 years ago. First, it would allow the Commission members to choose their own Chairperson, and ensure that objective standards - rather than arbitrary and unilateral decisionmaking by the Commission Chair - are used to evaluate the work of Commission staff. Second, the Commission would be authorized to issue meaningful fines - subject to the careful, case-by-case consideration of a number of mitigating and aggravating factors - that may be the only means to hold recalcitrant, deep-pocket water code violators accountable. Finally, the proposed SD1 would allow the Commission to more expediently address water emergencies, such as those threatened by the U.S. Navy, rather than undergo the months- or years-long process currently required under statute.

To strengthen this measure, I respectfully ask that the Proposed SD1 be further amended to 1) place the WAI Policy Coordinator and associated staff under the Water Commission, and NOT

the politically appointed Board of Land and Natural Resources Chairperson; and 2) allow the Commission to retain its own independent legal counsel, as proposed under SB3327 SD1.

Accordingly, I respectfully but strongly urge the Committee to ADOPT the Proposed SD1 for HB2690 HD2, with the above-noted amendments.

Mahalo nui for the opportunity to testify.

HB-2690-HD-2

Submitted on: 3/20/2024 8:28:00 AM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Linda Lyerly	Individual	Support	Written Testimony Only

Comments:

Aloha Chair LORRAINE Inouye, Chair Gabbard, Vice Chair Elefante, Vice Chair Richards, and Members of the Committees,

My name is Linda Lyerly. I live in Maui: 100 Ala Hoku Pl., Lahaina. I stand in STRONG SUPPORT of the PROPOSED SD1 to HB2690 HD2.

If we want to secure adequate water rights for ALL ag and business in Hawaii Nei please add SD1 and in order to strengthen this measure, I respectfully ask that the Proposed SD1 be further amended to 1) place the WAI Policy Coordinator and associated staff under the Water Commission, and NOT the politically appointed Board of Land and Natural Resources Chairperson; and 2) allow the Commission to retain its own independent legal counsel, as proposed under SB3327 SD1.

Accordingly, I respectfully but strongly urge the Committee to ADOPT the Proposed SD1 for HB2690 HD2, with the above-noted amendments.

Sincerely with Aloha for all, Linda Lyerly

HB-2690-HD-2

Submitted on: 3/20/2024 10:04:02 AM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Lory Ono	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Inouye, Chair Gabbard, Vice Chair Elefante, Vice Chair Richards, and Members of the Committees,

My name is Lory Ono and I am from Kaneohe. I stand in STRONG SUPPORT of the PROPOSED SD1 to HB2690 HD2.

For decades, the state has failed to address longstanding structural issues that have left the Water Commission vulnerable to undue political influence, and unable to take emergency action or enforce the water code against deep-pocket and politically powerful interests.

As we have seen, these structural weaknesses have stymied the Commission’s ability to do anything to meaningfully address the Red Hill water crisis - including the Navy’s ongoing, years-long noncompliance with its water use permits, and the waste of over 3 billion gallons of “essentially drinkable” water and counting from the Red Hill shaft.

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The proposed SD1 of this measure would address these weaknesses, originally identified 30 years ago. First, it would allow the Commission members to choose their own Chairperson, and ensure that objective standards - rather than arbitrary and unilateral decisionmaking by the Commission Chair - are used to evaluate the work of Commission staff. Second, the Commission would be authorized to issue meaningful fines - subject to the careful, case-by-case consideration of a number of mitigating and aggravating factors - that may be the only means to hold recalcitrant, deep-pocket water code violators accountable. Finally, the proposed SD1 would allow the Commission to more expediently address water emergencies, such as those threatened by the U.S. Navy, rather than undergo the months- or years-long process currently required under statute.

To strengthen this measure, I respectfully ask that the Proposed SD1 be further amended to 1) place the WAI Policy Coordinator and associated staff under the Water Commission, and NOT

the politically appointed Board of Land and Natural Resources Chairperson; and 2) allow the Commission to retain its own independent legal counsel, as proposed under SB3327 SD1.

Accordingly, I respectfully but strongly urge the Committee to ADOPT the Proposed SD1 for HB2690 HD2, with the above-noted amendments.

Mahalo nui for the opportunity to testify.

HB-2690-HD-2

Submitted on: 3/20/2024 10:13:29 AM

Testimony for WTL on 3/20/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Janice Toma Shiira	Individual	Support	Written Testimony Only

Comments:

Respectfully urge the committee to adopt the proposed SD1 for HB2690 HD2